IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

W.P.Nos.11774, 11775 and 11808 of 1999

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WRIT PETITION No.11774 of 1999

Between:

G.B. Shankar Rao S/o Late G. Balaiah
R/o Flat No.101, Sargam Appartments,
Seethaphal Mandi, Secundrabad.

..... PETITIONER

AND

1 The Managing Director,

Andhra Pradesh Small Scale Industries Development Corporation Ltd.,
A-3, Industrial Estate, Sanathnagar,
Hyderabad-18.
2 The Government of Andhra Pradesh, Rep by its Principal Secretary,
Industries Dept., Secretariat,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, direction or order particularly one in the nature of Writ of Mandamus declaring the action of the respondents as illegal, arbitrary, contrary to provisions of Art.14, 19 and 21 of Constitution of India and provision of Staff Regulation and against the principles of Natural Justice, in passing the termination orders without notice, opportunity and set aside the orders SSIDC/E7/Staff Regln/99 dt.29.5.99 and direct the respondents to re-instate the petitioner forthwith and pass such other order

or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

The Court made the following :

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.Nos.11774, 11775 and 11808 of 1999

C0MMON ORDER:

These three Writ Petitions are filed seeking a Mandamus declaring the action of the respondents in terminating the services of the petitioners through Proceedings dated 30-4-1999 and 29-5-1999 as arbitrary and illegal and consequently to direct the respondents to reinstate the petitioners into service forthwith with all consequential benefits.

The facts are not much in dispute. The services of the petitioners were terminated through the impugned Orders purporting to be under Clause 19(2) of the Staff Regulations of the Andhra Pradesh Small Scale Industrial Development Corporation Limited with effect from 30-4-1999 in case of the petitioner in Writ Petition No.11808 of 1999 and from 31-5-1999 in case of petitioners in other Writ Petitions by paying three months' substantive pay in lieu of three months advance notice, since the Corporation's finances are in adverse position and the Corporation is not in a position to continue them in service and pay salary any more and all the efforts made to earn and pay salaries went in vain. The Writ Petitions are filed challenging the said orders.

It is the contention of the learned counsel for the petitioners that before passing the termination orders, no notice of any kind was given or any explanation was called for

from the petitioners as to why their services are sought to be terminated.

Heard the learned counsel for the parties and perused the entire material made available on record.

In fact, the respondent-Corporation has evolved a scheme for voluntary retirement of the excess personnel and that the said scheme, though introduced for the first time in 1996, it was extended from time to time and finally it culminated on 31-5-1999. Nothing prevented the respondents from asking the petitioners to avail the Voluntary Retirement Scheme. Simply because the petitioners are more conscious of their services and they put in certain conditions for the purpose of their retirement from service of the Corporation, that does not mean that they can be retrenched from service without exploring the possibilities of their being retired from service voluntarily. May be, the conditions putforth by the petitioners are irrelevant, unreasonable and unacceptable. But, that does not mean that without putting the petitioners on notice that the conditions are not acceptable to the management, the management can terminate them from service. The Management could have issued a notice saying that either the petitioners should accept the voluntary retirement or otherwise, they have to face the termination and the conditions putforth by them are not acceptable to it in view of the financial crisis faced by the Corporation. Such a notice was never given to the petitioners. In fact, in the letter dated 13-5-1999, the petitioners made it clear that they are ready to exercise their option for voluntary retirement, subject to certain conditions. Probably, the petitioners being belonging to Scheduled Caste/Scheduled Tribe community, thought that if the principle of roster backwards is applied, they need not face retrenchment or voluntary retirement and that seems to be the object of the letter. But, that does not mean that the petitioners should not be informed of the intention of the management not to accept such conditions. The persons, who have opted for VRS were allowed to retire from service and even as on the date of termination of the petitioners, the scheme was available, since the Scheme concluded only on 31-5-1999. Therefore, the termination of the services of the petitioners through the impugned Proceedings is highly arbitrary and illegal. The petitioners are, therefore, entitled for the benefit of VRS as offered by the Management vide its letter dated 13-5-1999. As such, the impugned Proceedings terminating the services of the petitioners are arbitrary and illegal and liable to be set aside; accordingly, set aside.

In the result, the Writ Petitions are allowed and the respondents are directed to treat

that the petitioners have retired voluntarily from service under the Scheme, which was available upto 31-5-1999 and extend the benefits accrued therefrom. This exercise shall be done within a period of three months from the date of receipt of a copy of this order. No order as to costs.

22-8-2005

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